

Chapter 11

IMMINENT DANGER, FATALITY, CATASTROPHE, AND EMERGENCY RESPONSE

I. Imminent Danger Situations.

A. General.

1. Definition of Imminent Danger.

Iowa Code 88.2 defines imminent danger as "...a condition or practice in any place of employment which is such that a danger exists which will reasonably be expected to cause death or a serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures of this chapter, exclusive of the procedures set forth in section 88.11."

2. Conditions of Imminent Danger.

The following conditions must be present in order for a hazard to be considered an imminent danger:

- a. Death or serious harm must be threatened; AND
- b. It must be reasonably likely that a serious accident could occur immediately OR, if not immediately, then before abatement would otherwise be implemented.

NOTE: For a health hazard, exposure to the toxic substance or other hazard must cause harm to such a degree as to shorten life or be immediately dangerous to life and health (IDLH) or cause substantial reduction in physical or mental efficiency or health, even though the resulting harm may not manifest itself immediately.

B. Pre-Inspection Procedures.

1. Imminent Danger Report Received by the Field.

- a. After the Administrator or designee receives a report of imminent danger, he or she will evaluate the inspection requirements and assign a CSHO to conduct the inspection.

- b. Every effort will be made to conduct the imminent danger inspection on the same day that the report is received. In any case, the inspection will be conducted no later than the day after the report is received.
- c. When an immediate inspection cannot be made, the Administrator or designee will contact the employer immediately, obtain as many pertinent details as possible about the situation, and attempt to have any employee(s) affected by the imminent danger voluntarily removed, if necessary.
 - A record of what steps, if any, the employer intends to take in order to eliminate the danger will be included in the case file.
 - This notification is considered an advance notice of inspection to be handled in accordance with the advance notice procedures described below.

2. Advance Notice.

- a. Iowa Code 88.14(6) and IAC 875-3.4 authorizes advance notice of an inspection of potential imminent danger situations in order to encourage employers to eliminate dangerous conditions as quickly as possible.
- b. Where an immediate inspection cannot be made after the Office is alerted to an imminent danger condition and advance notice will speed the elimination of the hazard, the Team Leader or CSHO, at the direction of the Administrator, will give notice of an impending inspection to the employer.
- c. Where advance notice of an inspection is given to an employer, it shall also be given to the authorized employee representative, if present. If the inspection is in response to a formal complaint, the complainant will be informed of the inspection unless this will cause a delay in speeding the elimination of the hazard.

C. Imminent Danger Inspection Procedures.

All alleged imminent danger situations brought to the attention of or discovered by CSHOs while conducting any inspection will be inspected immediately. Additional inspection activity will take place only after the imminent danger condition has been resolved.

1. Scope of Inspection.

CSHOs may consider expanding the scope of an imminent danger inspection based on additional hazards discovered or brought to their attention during the inspection.

2. Procedures for Inspection.

- a. Every imminent danger inspection will be conducted as expeditiously as possible.
- b. CSHOs will offer the employer and employee representatives the opportunity to participate in the worksite inspection, unless the immediacy of the hazard makes it impractical to delay the inspection in order to afford time to reach the area of the alleged imminent danger.
- c. As soon as reasonably practicable after discovery of existing conditions or practices constituting an imminent danger, the employer shall be informed of such hazards. The employer shall be asked to notify affected employees and to remove them from exposure to the imminent danger hazard. The employer should be encouraged to voluntarily take appropriate abatement measures to promptly eliminate the danger.

D. Elimination of the Imminent Danger.

1. Voluntary Elimination of the Imminent Danger.

a. How to Voluntarily Eliminate a Hazard.

- Voluntary elimination of the hazard has been accomplished when the employer:
 - Immediately removes affected employees from the danger area;
 - Immediately removes or abates the hazardous condition; and
 - Gives satisfactory assurance that the dangerous condition will remain abated before permitting employees to work in the area.
- Satisfactory assurance can be evidenced by:
 - After removing the affected employees, immediate corrective action is initiated,

designed to bring the dangerous condition, practice, means or method of operation, or process into compliance, which, when completed, would permanently eliminate the dangerous condition; or

- A good faith representation by the employer that permanent corrective action will be taken as soon as possible, **and** that affected employees will not be permitted to work in the area of the imminent danger until the condition is permanently corrected; or
- A good faith representation by the employer that permanent corrective action will be instituted as soon as possible. Where personal protective equipment can eliminate the imminent danger, such equipment will be issued and its use strictly enforced until the condition is permanently corrected.

NOTE: Through onsite observations, CSHOs shall ensure that any/all representations from the employer that an imminent danger has been abated are accurate.

b. Where a Hazard is Voluntarily Eliminated.

If an employer voluntarily and completely eliminates the imminent danger without unreasonable delay:

- No imminent danger legal proceeding shall be instituted;
- The OSHA-8, Notice of an Alleged Imminent Danger, does not need to be completed;
- An appropriate citation(s) and notice(s) of penalty will be proposed for issuance with an appropriate notation on the OSHA-1B to document corrective actions; and
- CSHOs will inform the affected employees or their authorized representative(s) that, although an imminent danger had existed, danger has been eliminated. They will also be informed of any steps taken by the employer to eliminate the hazardous condition.

2. **Refusal to Eliminate an Imminent Danger.**

- a. If the employer does not or cannot voluntarily eliminate the hazard or remove affected employees from the exposure and the danger is immediate, CSHOs will immediately consult with the Administrator or designee and obtain permission to post an OSHA-8, Notice of an Alleged Imminent Danger.
- b. The Administrator or designee will then contact the Labor Commissioner and determine whether to consult with the Legal Section to obtain a Temporary Restraining Order (TRO).
- c. The employer will be advised that Iowa Code 88.11 gives the district court of the county in which the imminent danger is alleged to exist jurisdiction, and upon petition of the commissioner, the authority to restrain any condition or practice that poses an imminent danger to employees.

NOTE: The Agency has no authority to order the closing of a worksite or to order affected employees to leave the area of the imminent danger or the workplace.

- d. CSHOs will notify affected employees and the employee representative that an OSHA-8 has been posted and will advise them of the Iowa Code 88.9(3) discrimination protections. Employees will be advised that they have the right to refuse to perform work in the area where the imminent danger exists.
- e. The Administrator or designee and the Labor Commissioner, in consultation with the Legal Section, will assess the situation and, if warranted, make arrangements for the expedited initiation of court action, or instruct the CSHO to remove the OSHA-8.

3. **When Harm Will Occur Before Abatement is Required.**

- a. If CSHOs have clear evidence that harm will occur before abatement is required (i.e., before a final order of the Employment Appeal Board in a contested case or before a TRO can be obtained), they will confer with the Administrator or designee to determine a course of action.

NOTE: In some cases, the evidence may not support the finding of an imminent danger at the time of the physical inspection, but rather after further evaluation of the case file or presence of additional evidence.

- b. As appropriate, an imminent danger notice may be posted at the time citations are delivered or even after the notice of contest is filed.

II. Fatality and Catastrophe Investigations.

A. Definitions.

1. Fatality.

An employee death resulting from a work-related incident or exposure; in general, from an accident or an illness caused by or related to a workplace hazard.

2. Catastrophe.

The hospitalization of three or more employees resulting from a work-related incident or exposure; in general, from an accident or an illness caused by a workplace hazard.

3. Hospitalization.

Being admitted as an **inpatient** to a hospital or equivalent medical facility for examination, observation or treatment.

4. Incident Requiring a Response to a Significant Event

An incident involving multiple fatalities, extensive injuries, massive toxic exposures, extensive property damage, or one that presents potential employee injury and generates widespread media interest.

B. Initial Report.

1. The Fatality/Catastrophe Report Form (OSHA-36) is a pre-inspection form that must be completed for all fatalities or catastrophes unless knowledge of the event occurs during the course of an inspection at the establishment involved. The purpose of the OSHA-36 is to provide OSHA with enough information to determine whether or not to investigate the event. It is also used as a research tool by OSHA and other agencies.
2. If, after the initial report, the Office becomes aware of information that affects the decision to investigate, the OSHA-36 should be updated. If the additional information does not affect the decision to investigate, or the investigation has been initiated or completed,

the OSHA-36 need not be updated. After updating the OSHA-36, it should be resubmitted to the Statistical Section.

3. See additional details on completing the OSHA-36 in [Paragraph II.I](#) of this chapter, *Recording and Tracking for Fatality/Catastrophe Inspections*.

C. Investigation Procedures.

1. All fatalities and catastrophes will be thoroughly investigated in an attempt to determine the cause of the event, whether a violation of OSHA safety and health standards, regulations, or the general duty clause occurred, and any effect the violation had on the accident. The Administrator will establish a procedure to ensure that each fatality or catastrophe is thoroughly investigated and processed in accordance with established policy.
2. The investigation should be initiated as soon as possible after receiving an initial report of the incident, ideally within one working day, by an appropriately trained and experienced compliance officer assigned by the Administrator or designee. The Administrator or designee determines the scope of the fatality/catastrophe investigation. All investigations must be completed in an expeditious manner.
3. Inspections following fatalities or catastrophes should include videotaping as a method of documentation and gathering evidence when appropriate. The use of photography is also encouraged in documenting and evidence gathering.
4. As in all inspections, under no circumstances should OSHA personnel conducting fatality/catastrophe investigations be unprotected against a hazard encountered during the course of an investigation. OSHA personnel must use appropriate personal protective equipment and take all necessary precautions to avoid and/or prevent occupational exposure to potential hazards that may be encountered.

D. Interview Procedures.

1. **Identify and Interview Persons.**
 - a. Identify and interview all persons with firsthand knowledge of the incident, including first responders, police officers, medical responders, and management, as early as possible in the investigation. The sooner a witness is interviewed, the more accurate and candid the witness statement will be.

- b. If an employee representative is actively involved in the inspection, he or she can serve as a valuable resource by assisting in identifying employees who might have information relevant to the investigation.
- c. Conduct employee interviews privately, outside the presence of the employer. Employees are not required to inform their employer that they provided a statement to OSHA.
- d. When interviewing:
 - Properly document the contact information of all parties because follow-up interviews with a witness are sometimes necessary.
 - When appropriate, reduce interviews to writing and have the witness sign the document. Transcribe video- and audio-taped interviews and have the witness sign the transcription.
 - Read the statement to the witness and attempt to obtain agreement. Note any witnesses' refusal to sign or initial his/her statement.
 - Ask the interviewee to initial any changes or corrections made to his/her statement.
 - Advise interviewee of OSHA whistleblower protections.
- e. See [Chapter 3](#), *Inspection Procedures*, for additional information on conducting interviews.

2. **Iowa Fair Information Practices Act Notice**

- a. In conducting any employee interview, Employee Rights Sheet (Pink Sheet) shall be filled out and requested to be signed by the employee. This sheet tells the employee that his/her information will or will not be given out in a Fair Information Practice Act request. It does not mean that his/her information will be kept confidential as it relates to enforcement proceedings.
- b. Iowa OSHA will attempt to protect the contents of statements to the extent that disclosure would reveal the witness' identity. When the contents of a statement will not disclose the identity of the informant (i.e., statements that do not reveal the witness' job title, work area, job duties, or other information that would

tend to reveal the individual's identity), the protection does not apply and such statements may be released.

- c. Inform each witness that his/her interview statements may be released if he or she authorizes such a release or if he or she voluntarily discloses the statement to others, resulting in a waiver of the privilege.
- d. Inform witnesses in a tactful and nonthreatening manner that making a false statement to a CSHO during the course of an investigation could be an offense under Iowa Code 719.1. Making a false statement, upon conviction, is punishable as a simple misdemeanor and assessment of a fine of not less than two hundred fifty dollars.

E. Investigation Documentation.

Document all fatality and catastrophe investigations thoroughly.

1. Personal Data – Victim.

Potential items to be documented include: Name; Address; Email address; Telephone; Age; Sex; Nationality; Job Title; Date of Employment; Time in Position; Job being done at the time of the incident; Training for job being performed at time of the incident; Employee deceased/injured; Nature of injury – fracture, amputation, etc.; and Prognosis of injured employee.

2. Incident Data.

Potential items to be documented include: How and why did the incident occur; the physical layout of the worksite; sketches/drawings; measurements; video/audio/photos to identify sources, and whether the accident was work-related.

3. Equipment or Process Involved.

Potential items to be documented include: Equipment type; Manufacturer; Model; Manufacturer's instructions; Kind of process; Condition; Misuse; Maintenance program; Equipment inspection (logs, reports); Warning devices (detectors); Tasks performed; How often equipment is used; Energy sources and disconnecting means identified; and Supervision or instruction provided to employees involved in the accident.

4. Witness Statements.

Potential witnesses include: the Public; Fellow employees; Management; Emergency responders (e.g., police department, fire department); and Medical personnel (e.g., medical examiner).

5. Safety and Health Program.

Potential questions include: Does the employer have a safety and/or health program? Does the program address the type of hazard that resulted in the fatality/catastrophe? How are the elements of the program specifically implemented at the worksite?

6. Multi-Employer Worksite

Describe the contractual and in practice relationships of the employer with the other employers involved with the work being performed at the worksite.

7. Records Request.

Potential records include: Disciplinary Records; Training Records; and Next of Kin information.

NOTE: Next of kin information should be gathered as soon as possible to ensure that condolence letters can be sent in a timely manner.

F. Potential Criminal Charges in Fatality Cases.

1. Criminal Penalties.

- a. Iowa Code 88.14(5) provides criminal penalties for criminal charges for an employer who is convicted of having willfully violated an OSHA standard, rule or order when the violation results in the death of an employee.
- b. The circumstances surrounding all occupationally-related fatalities will be evaluated to determine whether the fatality was caused by a willful violation of a standard, thus creating the basis for a possible criminal referral. The evidence obtained during a fatality investigation is of paramount importance and must be carefully gathered and considered.
- c. Early in the investigation, the Administrator or designee, in consultation with the investigator, should make an initial determination as to whether there is potential for a criminal violation. The decision will be based on consideration of the following:

- A fatality has occurred.
- There is evidence that an OSHA standard has been violated and that the violation contributed to the death.
- There is reason to believe that the employer was aware of the requirements of the standard and knew it was in violation of the standard, or that the employer was plainly indifferent to employee safety.
- If the Labor Commissioner agrees with the Administrator or designee's assessment of the case, the Labor Commissioner will notify the Legal Section. At the discretion of the Labor Commissioner and the Administrator or designee, and dependent upon Office procedures in place, a team or trained criminal investigator may assist in or perform portions of an investigation.
- When there is a potential criminal referral in a case, it is essential that the Labor Commissioner and/or the Administrator involve the Legal Section in the early stages of the investigation during the evidence gathering process.

2. **Additional Prosecution.**

In addition to charges under Iowa Code 88.14(5), employers may potentially face prosecution under a number of other sections of the Code, including, but not limited to:

- a. For actions such as conspiracy, making false statements, fraud, obstruction of justice, and destruction, alteration or falsification of records during an investigation, employers may face State Prosecution under other sections of the Iowa Code or referrals may be made to the US Attorney's Office for Federal Criminal Prosecution.
- b. Reserved.
- c. Reserved.
- d. Reserved.
- e. Reserved.

3. **Procedures for Criminal Referral.**

When a case is forwarded from the Labor Commissioner to the Legal Section for criminal review, the Area Director should be advised. Provide follow-up reports to indicate any subsequent actions.

G. Families of Victims.

1. Contacting Family Members.

Family members of employees involved in fatal or catastrophic occupational accidents or illnesses shall be contacted early in the investigation and given the opportunity to discuss the circumstances of the accident or illness. OSHA staff contacting family members must exercise tact and good judgment in their discussions.

2. Information Letter.

The standard information letter will normally be sent to the individual(s) listed as the emergency contact on the victim's employment records (if available) and/or the otherwise determined next of kin within 5 working days of determining the victim's identity and verifying the proper address where communications should be sent.

NOTE: In some circumstances, it may not be appropriate to follow these exact procedures; i.e., in the case of a small business, the owner or supervisor may be a relative of the victim. Modify the form letter to take any special circumstances into account or do not send the letter, as appropriate.

3. Letter to Victim's Emergency Contact.

Reserved

4. Interviewing the Family.

- a. When taking a statement from families of the victim(s), explain that the interview will be handled following the same procedures as those in effect for witness interviews. Sensitivity and professionalism are required during these interviews. Carefully evaluate the information received and attempt to corroborate it during the investigation.
- b. Maintain follow-up contact with key family members or other contact persons so that these parties can be kept up-to-date on the status of the investigation. Provide family members or

their legal representatives with a copy of all citations, subsequent settlement agreements or Employment Appeal Board decisions as these are issued, or as soon thereafter as possible. However, such information will only be provided to family members after it has been provided to the employer.

- c. The releasable portions of the case file will not be made available to family members until after the contest period has passed and no contest has been filed. If a contest is filed, the case file will not be made available until after the litigation is completed or the a family member declares intervener/party status.. Additionally, if a criminal referral is under consideration or has been made, the case file may not be released to the family. Notify the family of these policies and inform them that this is necessary so that any potential litigation is not compromised.

H. Public Information Policy.

OSHA's public information policy regarding response to fatalities and catastrophes is to explain OSHA presence to the news media. It is not to issue periodic updates on the progress of the investigation. The Administrator and his or her designee will normally handle response to media inquiries.

I. Recording and Tracking for Fatality/Catastrophe Investigations.

1. Fatality/Catastrophe Report Form (OSHA-36).

The OSHA-36 is a pre-inspection form that must be completed for all fatalities and catastrophes unless knowledge of the event occurs during the course of an inspection at the establishment involved. Processing of the OSHA-36 shall be as follows:

- a. The Office will complete and enter into IMIS an OSHA-36 for all fatalities and catastrophes as soon as possible after learning of the event. As much information as is known at the time of the initial report should be provided; however, all items on the OSHA-36 need not be completed at the time of this initial report. Wherever possible, the age of the victim(s) should be provided, because this information is used for research by OSHA and other agencies.
- b. The OSHA-36 will be completed and saved final on the IMIS system within 48 hours of receipt.

- c. If additional information relating to the event becomes available that affects the decision to investigate, the OSHA-36 is to be updated.
- d. In addition to notifying the Labor Commissioner, who will notify the Governor's staff, the Administrator will contact the Area Director to ensure prompt notification of the National Office of major events, such as those likely to generate significant public or congressional interest.

2. **Investigation Summary Report (OSHA-170).**

- a. The OSHA-170 is used to summarize the results of investigations of all events that involve fatalities, catastrophes, amputations, hospitalizations of two or more days, have generated significant publicity, and/or have resulted in significant property damage. An OSHA-170 must be opened, logged into IMIS, and saved as final as soon as the agency becomes aware of a workplace fatality and determines that it is within its jurisdiction, even if most of the data fields are left blank. The information on this form enables the Agency to track fatalities and summarizes circumstances surrounding the event.

NOTE: The two-day hospitalization criterion is a cutoff to preclude completing an OSHA-170 for events that may not be serious. There is no relationship between this criterion and the definition of hospitalization in [Section II. A.](#) of this chapter, Definitions.

- b. For fatality/catastrophe investigations, the OSHA-170 will be:
 - Opened in IMIS at the beginning of the investigation and saved as *final*, even if most of the data fields are left blank, so that the Agency can track fatality/catastrophe investigations in a close to “real time” fashion.
 - Modified as needed during the investigation to account for updated information.
 - Updated with all data fields completely and accurately completed at the conclusion of the investigation, including a thorough narrative description of the incident.

- c. The OSHA-170 narrative should not be a copy of the summary provided on the OSHA-36 pre-inspection form. The narrative must comprehensively describe the characteristics of the worksite; the employer and its relationship with other employers, if relevant; the employee task/activity being performed; the related equipment used; and other pertinent information in enough detail to provide a third party reader of the narrative with a mental picture of the fatal incident and the factual circumstances surrounding the event.
- d. Only one OSHA-170 should be submitted for an event, regardless of how many inspections take place. If a subsequent event occurs during the course of an inspection, a new OSHA-170 for that event should be submitted.

EXAMPLE 11-1: A fatality occurs in employer's facility in August. Both a safety and health inspection are initiated. One OSHA-170 should be filed to summarize the results of the inspections that resulted from the August fatality. However, in September, while the employer's facility is still undergoing the inspections, a second fatality occurs. In this case, a *second* OSHA-170 should be submitted for the second fatality and an additional inspection should be opened.

3. **Immigrant Language Questionnaire (IMMLANG).**

- a. The [IMMLANG Questionnaire](#) is designed to allow the Agency to track fatalities among Hispanic and immigrant employees and to assess the impact of potential language barriers and training deficiencies on fatal accidents. Information for this questionnaire should be collected as early in the investigation as possible, as the availability of immigrants for questioning later in the process is often uncertain.
- b. The IMMLANG Questionnaire shall be completed before the conclusion of a fatality investigation according to the procedures outlined in the December 16, 2003, [memorandum](#) from Deputy Assistant Secretary R. Davis Layne to the Regional Administrators. It should be completed only if "IMMLANG-Y" is indicated on the OSHA-1 (N-10 Optional Information Code). The Questionnaire is not to be completed if "IMMLANG-N" is indicated on the OSHA-1.
- c. The IMMLANG Questionnaire shall be submitted via the intranet. A copy of the completed questionnaire should be printed and placed in the case file.

4. **Related Event Code (REC).**

The OSHA-1B provides specific supplemental information documenting hazards and violations. If any item cited is directly related to the occurrence of the fatality or catastrophe, the related event code “A” shall be entered in block 13. If multiple related event codes apply, the only code that has priority over relation to a fatality/catastrophe (“A”) is relation to an imminent danger (“I”).

J. **Pre-Citation Review.**

1. Because cases involving a fatality may result in civil or criminal enforcement actions, the Administrator is responsible for reviewing all fatality and catastrophe investigation case files to ensure that the case has been properly developed and documented in accordance with the procedures outlined here.
2. The Administrator is responsible for ensuring that an OSHA-170 is reported to IMIS for each incident (see [Paragraph II.I.2.](#) of this chapter, *Investigation Summary Report (OSHA-170)*).
3. Review all proposed violation-by-violation penalties in accordance with [CPL 02-00-080](#), *Handling of Cases to be Proposed for Violation-by-Violation Penalties*, dated October 21, 1990.
4. Reserved.
5. The Administrator should establish a procedure to ensure that each fatality or catastrophe is thoroughly investigated and processed in accordance with established policy.

K. **Post-Citation Procedures/Abatement Verification.**

The Iowa OSHA regulation governing abatement verification is found in IAC 875 – 3.19. Enforcement policies and procedures for this regulation are outlined in [Chapter 7](#), *Post-Citation Procedures and Abatement Verification*.

1. Due to the transient nature of many of the worksites where fatalities occur and because the worksite may be destroyed by the catastrophic event, it is frequently impossible to conduct follow-up inspections. In such cases, the Administrator should obtain abatement verification from the employer, along with an assurance that appropriate safety and health programs have been implemented to prevent the hazard(s) from recurring.

2. While site closure due to the completion of the cited project is an acceptable method of abatement, it can only be accepted as abatement without certification where a CSHO directly verifies that closure; otherwise, certification by the employer is required. Follow-up inspections need not be conducted if the CSHO has verified abatement during the inspection or if the employer has provided other proof of abatement.
3. Where the worksite continues to exist, OSHA may conduct a follow-up inspection if serious citations have been issued.
4. Include abatement language and safety and health system implementation language in any subsequent settlement agreement.
5. If there is a violation that requires abatement verification, field 22 on the OSHA1-B must be completed with the date of abatement verified.
6. Reserved.

L. Audit Procedures.

The following procedures will be implemented to evaluate compliance with, and the effectiveness of, fatality/catastrophe investigation procedures:

1. The Office will incorporate the review and analysis of fatality/catastrophe files into their audit functions and include their findings in regular audit reports. The review and analysis will utilize random case files to address the following:
 - a. *Inspection Findings.* Ensure that hazards have been appropriately addressed and violations have been properly classified. Also ensure that criminal referrals are made when appropriate.
 - b. *Documentation.* Ensure that the OSHA-170 narrative and data fields and the OSHA-1B narrative have been completed accurately and detailed enough to allow for analysis at the national level of the circumstances of fatal incidents. Ensure that the IMMLANG Questionnaire is completed, if relevant.
 - c. Reserved.

- d. *Settlement Terms.* Ensure that settlement terms are appropriate, including violation reclassification, penalty reductions, and additional abatement language.
- e. *Abatement Verification.* Ensure that abatement verification has been obtained.
- f. Review IMIS reports to identify any trends or cases that may indicate that a further review of those cases may be necessary.

M. Relationship of Fatality and Catastrophe Investigations to Other Programs and Activities.

1. Homeland Security.

OSHA's *National Emergency Management Plan (NEMP)*, as contained in [HSO 01-00-001](#), dated December 18, 2003, clarifies the procedures and policies for OSHA's National Office and Regional Offices during responses to incidents of national significance. Generally, OSHA will provide technical assistance and consultation in coordinating the protection of response worker and recovery worker safety and health. When the President makes an emergency declaration under the Stafford Act, the National Response Framework (NRF) is activated. The NEMP can then be activated by the Assistant Secretary, the Deputy Assistant Secretary, or by request from a Regional Administrator. Whether OSHA will conduct a formal fatality or catastrophe investigation in such a situation will be determined on a case-by-case basis.

2. Reserved

3. Significant Enforcement Cases.

- a. Significant enforcement cases are defined as inspection cases with initial proposed penalties over \$100,000. An inspection resulting from an employee fatality or a workplace catastrophe may well be a significant enforcement case and, therefore, particularly thorough documentation is necessary to sustain legal sufficiency.
- b. In cases involving a fatality or catastrophe, the procedures outlined in the [memorandum](#) dated March 24, 2004, to Regional Administrators from Deputy Assistant Secretary R. Davis Layne regarding Procedures for Significant Enforcement Cases should be closely followed.

4. Special Emphasis Programs.

If a fatality or catastrophe investigation arises with respect to an establishment that is also in the current inspection cycle to receive a programmed inspection under any Site Specific Targeting program, the investigation and the inspection may be conducted either concurrently or separately.

5. Cooperative Programs.

If a fatality or catastrophe occurs at a Voluntary Protection Program (VPP), OSHA Strategic Partnership Program (OSPP) site, or OSHA's Safety and Health Achievement Recognition Program (SHARP), the State Consultation Manager, and the State VPP Program Manager should be notified. They will notify the appropriate Regional Managers. When enforcement activity has concluded, the State Consultation Manager or the State VPP Program Manager should be informed so that the site can be reviewed for program issues.

N. Special Issues Related to Workplace Fatalities.

1. Death by Natural Causes.

Workplace fatalities caused by natural causes, including heart attacks, must be reported by the employer. The Administrator or designee will then decide whether to investigate the incident.

2. Workplace Violence.

As with heart attacks, fatalities caused by incidents of workplace violence must be reported to OSHA by the employer. The Administrator or designee will determine whether or not the incident will be investigated.

3. Motor Vehicle Accidents.

- a. OSHA does not require reporting motor vehicle accidents that occur on public roads or highways, unless the accident occurs in a construction work zone.
- b. Although employers who are required to keep records must record vehicle accidents in their OSHA-300 Log of Work-Related Injuries and Illnesses, OSHA does not investigate such accidents. See [§1904.39\(b\)\(3\)](#).

III. Rescue Operations and Emergency Response.

A. OSHA's Authority to Direct Rescue Operations.

1. Direction of Rescue Operations.

OSHA has no authority to direct rescue operations. These are the responsibility of the employer and/or local political subdivisions or other state agencies.

2. Monitoring and Inspecting Working Conditions of Rescue Operations.

OSHA may monitor and inspect working conditions of covered employees engaged in rescue operations to ensure compliance with standards that protect rescuers, and to provide technical assistance where appropriate.

B. Voluntary Rescue Operations Performed by Employees.

OSHA recognizes that an employee may choose to place himself/herself at risk to save the life of another person. The following provides guidance on OSHA citation policy toward employers whose employees perform, or attempt to perform, rescues of individuals in life-threatening danger.

1. Imminent Danger.

IAC 875 – 3.20(5) provides that no citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger [i.e., the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated] unless:

- a. Such employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations,

AND

the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

- b. Such employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties,

AND

the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

- c. Such employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as operations where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water;

AND

such employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual;

AND

the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

2. **Citation for Voluntary Actions.**

If an employer has trained his or her employees in accordance with IAC 875 – 3.20, no citation will be issued for an employee's voluntary rescue actions, regardless of whether they are successful.

C. **Emergency Response.**

1. **Role in Emergency Operations.**

While it is OSHA's policy to respond as quickly as possible to significant events that may affect the health or safety of employees, the agency does not have authority to direct emergency operations.

2. **Response to Catastrophic Events (Note: these are *not* OSH Act requirements).**

OSHA responds to catastrophic events promptly and acts as an active and forceful protector of employee safety and health during the response, cleanup, removal, storage, and investigation phases

of these incidents, while maintaining a visible but limited role during the initial response phase.

3. **OSHA's Role.**

- a. For inspections of an ongoing emergency response or post-emergency response operation where there has been a catastrophic event, or where OSHA is acting under the National Emergency Management Plan (NEMP), Regional Administrators will determine the overall role that OSHA will play. See [CPL 02-02-073](#), *Inspection Procedures for 1910.120 and 1926.65, Paragraph (q): Emergency Response to Hazardous Substance Releases*, dated August 27, 2007.
- b. During an event that is covered by the NEMP, OSHA has a responsibility and authority to both enforce its regulations and provide technical advice and assistance to the Federal on-scene coordinator. If such an event occurs in a State Plan State, OSHA will coordinate with the State Plan agency to ensure their involvement in the response.
- c. For details on OSHA's response to occupationally-related incidents involving multiple fatalities, extensive injuries, massive toxic exposures, extensive property damage, or potential employee injury that generates widespread media interest. See IOSH Instruction CPL 2.94.

4. **Incidents of National Significance.**

For Incidents of National Significance Iowa will evaluate participation on a case by case basis in coordination with the Regional Office.

Note: Reserved